

Remarks

The above application has once again been carefully reviewed in light of the second and final Office Action and the Rejections as set forth on January 15, 2009 and the comments of the Examiner have been duly noted.

The Examiner has rejected parent claim 1 and the dependent claims 2 through 8 through 8 under 35 U.S.C. §102(b) as being anticipated by the published Japanese Utility Model Patent Application No. 2-353U.

By the present Amendment, applicant has added a new limitation in the single parent claim that is believed to patentably distinguish the invention over the prior art of record.

The claimed invention as set forth in Claim 1 relates to an adhesive tape for attachment to a surface (adherend) such as a vehicle pillar post or door frame, etc. for the purpose of enhancing the appearance thereof. The key features of Claim 1 are, the positioning tab **24** and the tape body **4** are interconnected via a connecting portion **8** including the cutting line **L**. The cutting line **L** is recited as penetrating through the tape body **4** and the release sheet **12** in the same location as can be easily seen in Figure 3. This is not true in the cited prior art.

It should be noted that in recent Office Action, the Examiner clearly pointed out that " the claim does not specify that the cut line in the tape body and the release sheet has to be in the same location". This limitation has now been added.

In use, the positioning tab **24** can be separated from the tape body **4** along the cutting line **L** with the release sheet **12**. Therefore, the positioning tab **24** can easily be removed from the tape body **4** after the tape body is secured to the an adherend, such as a vehicle door frame. In addition, a worker can remove the positioning tab **24** from the tape body **4** without touching.

As previously argued, the adhesive tape art is a crowded one with hundreds of patents all directed to what may at first appear to be *slight* differences in structure. Many of these "minor" improvements have resulted in new or unexpected results, improving the application of trim and decorative strips to vehicles either during construction at the factory or subsequent to sale.

It has long been held that such minor technological improvements can have practical impact, particularly in a crowded art, and are patentable. See *Continental Can Co. USA Inc. v. Monsanto Co.* 20 USPQ2d 1746 (Fed. Cir. 1991). Also

note *Goodyear Tire and Rubber Co. v. Hercules Tire and Rubber Co.* 48 USPQ2d 1767 (Fed. Cir. 1998).

Progress is important in crowded arts as in those which are in a pioneer stage and such progress is usually made in small increments. *In re Hummer* 113 USPQ 66 (CCPA 1957).

In order for a prior art reference to anticipate under 35 U.S.C. §102, it must disclose all of the elements of the claim within the four corners of the single document and must disclose those elements arranged as in the claim. *NetMoneyIN Inc. v. VeriSign Inc.*, 88 USPQ2d 1751 (Fed. Cir. 2008)

It is believed that the present contribution to the art meets the criteria of the law and the cases cited above.

Accordingly, reconsideration of the rejection of the claims is respectfully solicited.

Respectfully submitted,

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